DOCUMENT RESUME

ED 192 937 RC 011 616

AUTHOR Roper, Dwight
TITLE Preparing for the Bakke Decision: Chicanos, Higher Education and the Supreme Court.
INSTITUTION Mexican American Legal Defense and Educational Fund, Inc., San Francisco, Calif.
PUB DATE 1 Feb 78
NOTE 43p.

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS *Access to Education; *Admission Criteria; Affirmative Action; College Admission; College Applicants; College Entrance Examinations; Competitive Selection; *Court Litigation; Disadvantaged; Educational Discrimination; Eligibility; Equal Education; Government Role; *Graduate Study; Higher Education; *Mexican Americans; Minority Groups; Nondiscriminatory Education; Open Enrollment; Racial Composition; Reverse Discrimination
IDENTIFIERS *Bakke v Regents of University of California; Chicanos; *Supreme Court

ABSTRACT

As the decision in the Bakke case drew near, Chicanos addressed the question of what they and higher education could do to insure increased minority admissions into graduate and professional schools. Commonly suggested proposals of changing formal admissions criteria and direct intervention by the law and government often cause more problems than they solve and, at best, address only a small part of the difficulties and dialogue between minority applicants and higher education. As an alternative to those simplistic suggestions, a combination affirmative action approach could include, but not be limited to, some variation of an open admissions system, changes in the traditional ways of selecting faculty members, moving the direct responsibility for minority admission to higher levels of administrative responsibility, precisely defining service areas for different minority populations, recognizing and using the political profiteering that accompanies present admission practices, retesting terminology to eliminate ambiguous phrases and ambivalent wording, and initiating a low budget commission to study the applicability of open access in graduate and professional training. (Author/NEC)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

rec 18-09-79

ED192937

PREPARING FOR THE BAKKE DECISION:

CHICANOS, HIGHER EDUCATION AND THE SUPREME COURT

DWIGHT ROPER

COMMISSIONED BY MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND
28 GEARY STREET, SAN FRANCISCO, CALIFORNIA

FEBRUARY 1, 1978

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
Eduardo Marenco
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

RC 011616

TABLE OF CONTENTS

		Page No.
Synopsis		
I.	Introduction	1
	A. Some Relevant Background and Commentary	1
	1. Criteria: Exclusion versus Inclusion	2
	2. General Anxiety	3
	3. Robin Hood Mentality versus Political Horse Swapping	4
	B. The Employment Connection	6
II.	Some Information on Admissions	7
III.	Some Explanations	9
	A. Simple Maladjustment of Selection Criteria	10
	B. Response to the Economic Situation	10
	C. Chain Reaction Response to Bakke Decision	10
	D. Bakke as a Defense for the Status Quo	11
	E. Increasing the Distance Between the Carrot and the Donkey	12
IV.	Meeting the Bakke Crisis: Some Alternative Approaches for Higher Education	13
	A. Changes in Admission Criteria	14
	B. Invoking Robin Hood Again: Changes by the Law and Direct Government Intervention	18
	C. Open Admissions	20
	D. Changing Faculty Selection Practices	24
	E. Combination Affirmative Action Admissions	31
	1. Reconsidering the Level of Direct Responsibility	31
	2. Redefining Service Areas	33
	3. Identifying and Using Political Connections with Admissions	34
	4. Rethinking the Words	35
	5. Initiating Commissions and Other Follow Through Possibilities	36
V.	Some Sources	38

Synopsis

As the decision in the Bakke case draws closer, what can Chicanos and Higher Education do to insure increased minority admissions into graduate and professional schools? Commonly suggested proposals of changing formal admissions criteria and direct intervention by the law and government often cause more problems than they solve. At best they address only a small part of the difficulties and dialogue between minority applicants and higher education. As an alternative to those simplistic suggestions, a combination affirmative action approach could include but not be limited to some variation of an open admissions system, changes in the traditional ways of selecting faculty members, moving the direct responsibility for minority admission to higher levels of administrative responsibility, precisely defining service areas for different minority populations, and recognizing and using the political profiteering that accompanies present admission practices.

PREPARING FOR THE BAKKE DECISION:

Chicanos, Higher Education and the Supreme Court

Dwight Roper

I INTRODUCTION

For minority groups in general and Chicanos in particular the pending decision in the Bakke case raises some significant policy questions. Have graduate and professional schools, colleges and universities recently altered their admission practices for minority candidates? Have those alterations resulted in increasing or slackening efforts to admit minority or non traditional applicants? To what degree does any recent marked change reflect anticipation of the upcoming decision in the Bakke case? And more positively and probably of more importance, what are some of the policy implications and alternatives resulting from such anticipation and the decision itself? What can higher education do to increase affirmative action admission efforts regardless of the Bakke decision? Partial or even full answers to those questions would not make such sense without at least a brief look at background and commentary on the strange emergence of so-called reverse discrimination.

A. Some Relevant Background and Commentary

After two consecutive rejections from admission to the University of California Medical School at Davis, Allan Bakke sued that institution on the ground that 16 of the available 100 openings were designated for minority applicants. In addition, Bakke contended the university did not

require those successful minority applicants to meet the same high academic standards as the white male candidates. Eventually the California Supreme Court stated in a 6-1 decision that the university had discriminated against Bakke through the use of an unconstitutional special admissions program for minority applicants. The case lies now before the United States Supreme Court with an announcement of decision coming likely before or during spring 1978.

Since the California court statement "pundits currently writing" about aspects and ramifications of the case have been "legion." [1] Some of that commentary reviews specific detail issues such as selection and admission criteria. A larger portion of that recent body of literature reflects a general anxiety about the continuing dialogue between the institutions of society and its minority population groups. A lot of the recommendations accompanying such presentations offer only the limited and overworked vision of penalizing one segment of the population for the benefit of another. Most of that commentary fails to recognize or deal with the necessity of political horse trading between contending self and group interests.

1. Criteria: Exclusion versus Inclusion

Some of the writers interested in Bakke set their sights on what at first glance appears to be the tangible and measurable target of admissions criteria. For example, in a recent article William Boyd II

---

[1] Stanley Elam, "Is a Bakke Compromise Possible?" Phi Delta Kappan December 1977. p. 270

advocates the use of divergent criteria for minority admission programs to higher education. He argues that within groups of minority students graduation rates "do not vary from those with the lowest scores to those with the highest." Boyd further asserts that class rank "is at least as good and perhaps better as an indicator of potential." He goes on to state that admission processes "have to be race conscious to a certain degree" in order to "compensate for the way in which test scores underrepresent minority student ability." Boyd also asserts that the continuation of supposedly "race blind" admissions based heavily on standardized tests is the "threat of the Bakke case." [2]

But Boyd's recommendation for "race conscious" admissions directly oppose the criteria suggestions from the California Supreme Court. In another piece John Stevens noted the majority opinion of that court insisted any broader admissions criteria for ethnic, minority or non-traditional group must also apply to all candidates for admission. [3] That sort of basic conflict in recommendations between "race conscious" admissions and equal applicability of criteria leads to another noticeable aspect in the commentary on Bakke.

2. General Anxiety

Editor of Phi Delta Kappan, Stanley Elam, noted recently that most of the writers on Bakke "seem terrified with the choice that faces

---

[2] William M. Boyd II "SATs and Minorities: The Dangers of Underprediction," Change Magazine, November 1977. p. 64

[3] John M. Stevens "The Good News of Bakke," Phi Delta Kappan September 1977. p. 23

us." [4] Indeed that foreboding permeates much of the commentary on the case. For example, John Stevens poses that if Bakke is upheld, there still "might" be salutary reforms. He hastens to add the tremulous note, "but it is far from certain." [5] Such hesitancy and trepidation toward the results of the coming decision result in a noticeable lack of vision and suggested innovative preparation.

3. The Robin Hood Mentality Versus Political Horse Swapping

The best that a lot of the related commentary can suggest is some sort of continued experimentation and reliance on the old tried and trampled saw of robbing from the fortunate to reimburse the underprivileged. This direct but somewhat limited vision of justice expresses the quaint tenet that some way, somehow, someone should have to give up something without compensation. Advocates of this "active" reform philosophy often identify the federal government as just the very agent to carry out this forced redistribution. For an example from suggestions on how to increase the number of bilingual/bicultural individuals in the health profession, a recent report to the Department of Health Education and Welfare suggested more federal participation in the following manner. Congress should "provide bonus" grants to health professions schools for each bilingual/bicultural minority student enrolled. [6] Along with these

---

[4] Elam, "Is a Bakke Compromise Possible?" p. 270

[5] Stevens, "The Good News of Bakke." p. 26

[6] Assessment of Health Professions Schools' Admissions Criteria for Bilingual Bicultural Applicants. Executive Summary prepared by Urban Systems Research and Engineering, Inc. Cambridge, Massachusetts, and Washington, D. C.: for Department of Health Education and Welfare, Health Resources Administration Bureau of Health Manpower, November 1977. p. 6

grants HEW would have the responsibility to "monitor and enforce the affirmative action enrollment and hiring plans" of those institutions receiving such grants. [7]

The fact that non-research and development grants to institutions of higher education are rapidly becoming as extinct as Brontosaurus failed to cloud the image of the Federal government as a benevolent champion of the downtrodden. Missing also from such recommendations is the corresponding item that very few taxpayers and no legislators at all would now be enthusiastic about feathering cosy sinecures for academics in institutions that were willing to either swallow or mask their racial and economic prejudice.

The prevalence of naive and outdated recommendations in the related commentary to Bakke suggest a neglect of the fine art of political swapping. Some of the recent literature on reverse discrimination accomplished one significant expose. It pulled down the sheets to disclose some surprising bedmates. For example, the National Education Association filed a brief with the Supreme Court contending that the University of California should give special consideration to minority applicants. That amicus brief is somewhat odd as it is doubtful that a majority of the traditionally conservative NEA members would support such a position.

Even stranger is the brief from the supposedly more liberal American Federation of Teachers supporting the California court's pro-Bakke decision. At first glance, such support is difficult to reconcile with the

---

[7] Assessment of Health Professions Schools' Admissions Criteria. p. 8

strong minority membership base and civil rights commitment of AFT. Rather than arousing consternation these fence jumping exercises should provide an important consideration.

Any recommendation concerning the results of the Bakke decision which ignores self interest, swapping and forming of possible coalitions of otherwise undesirable associates has little chance of practical success. As well as thrusting higher education even farther into the political market place, any viable recommendations must also wrestle with an equally powerful institution. Before examining some available admissions evidence, it is worth noting how affirmative action in the employment sector has directly influenced concepts of minority enrollment in graduate and professional training.

B. The Employment Connection

Of particular significance are shifts for both employment and education in the wording of affirmative action. In measuring affirmative action effort in employment the original phrase "percentage of the population" has metamorphased into the more elusive "percentage of the available work force." Such wording and other ambivalent dichotomies have also crept into the affirmative action statements of education at all levels. For instance, printed affirmative action information from San Jose Unified School District defends the use of "goals" instead of "quotas" in minority employment. That affirmative action officer for the district argues that there "is a tendency among those who feel personally threatened by affirmative action to insist on introducing the emotion-packed trigger word 'quota' where it does not belong." According to him quotas "are rigid

and exclusionary." Supposedly they infer the quota "is what you must achieve no matter what." On the other side San Jose Unified draws smiling faces on the term "goals" because they are "flexible and inclusionary." According to the affirmative action officer, goals "infer" what an institution can "achieve if you try your best." [8]

The wording concerning admissions in higher education has also shifted toward more ambivalent phrases. Self proclaimed liberal advocates no longer mention minority admissions to graduate and professional schools on the basis of "percentage of population." Now conventional wisdom has employed the use of the less abrasive and less easily measured "percentage of qualified applicant pool." From bottom to top in education during the past fourteen years, the language of measuring affirmative action effort has softened. On the eve of the Bakke decision what effect has that watering down had for graduate and professional school minority admission practices?

II SOME INFORMATION ON ADMISSIONS

The University of California Medical Schools have shown recent reluctance to disclose admissions information. In an attempt to obtain information on the number of Chicano applicants and admissions, the Mexican American Legal Defense and Education Fund staff encountered some surprising

---

[8] Daniel S. Alcala, Deputy Administrator for Affirmative Action, "Questions and Answers about Affirmative Action and School District." San Jose Unified School District, 1605 Park Avenue, San Jose, California.

obstacles and run-arounds. For example, the UC Medical Center at San Francisco could provide only partial admissions information for 1976-1977. As late as November 2, 1977, the San Francisco Medical Center asserted that they had not yet computed admissions data for 1977-1978. The Medical Center at the University of California, Irvine could provide the percentage of Mexican American candidates but there was no comparative data available on other minority admissions. The representative for the Medical School at the University of California, Los Angeles stated that information on minority admissions would be extremely difficult to gather. That representative informed MALDEF staff that unless she had a very persuasive reason, she could not collect such information.

Does that reluctance to provide admissions information reflect a recent change in practice? There is some evidence to show that it does. For example, a representative in the office of the Associate Dean of Admissions for the University of California San Diego Medical School told a MALDEF staff member that admissions information on minorities was readily available. But the flagship UC system office in Berkeley had "wisely counselled" the San Diego Medical School to avoid releasing such information.[9]

Other professional training areas have also shown recent changes in admissions policies. One of the most notable examples in California has

---

[9] Barbara Johnson "U. C. Telephone Survey on Minorities in U. C. Medical Schools, First Year Students, 1976-1977 and 1977-1978." Memorandum to Ed Marenco. San Francisco: Mexican American Legal Defense and Educational Fund, 28 Geary Street, November 2, 1977. pp. 1, 2 and 3.

been the proposed increased reliance on LSAT scores as grounds for admission to Hastings Law School. In August of 1977 the faculty of Hastings tentatively increased the weight of the Law School Admission Test to count 72% while undergraduate grades would provide only 28% of the total numerical score used as the basis for selection of applicants. Up until that recent change Hastings counted the LSAT as only 52%.

The Mexican American Defense and Education Fund, the NAACP Legal Defense Fund and the Mission Community Legal Defense Fund charged that the increased reliance on LSAT will further restrict access for minority applicants to the legal profession. MALDEF statistician Mario Lara stated that the recent change means that "one 3½ hour exam is going to be worth a lot more than four years of work in college." [10] In similar vein San Francisco Mayor Moscone stated that such a "change in admissions criteria" would send "exclusionary messages to an already underrepresented minority community." According to Moscone that sort of criteria would say in effect to minority applicants that "as you begin to qualify, we are changing the rules on you." [11]

III SOME EXPLANATIONS

Of course there can be several interpretations of the reason for and the meaning of the commentary and information presented so far. To some degree any sensible recommendations must reflect those explanations as well

---

[10] As quoted in Paul Ramirez, "Hastings Shift on Admissions Stirs Protest." San Francisco Sunday Examiner and Chronicle, January 1, 1978 p. 10, Section A.

[11] Ibid.

as the information itself. Before offering workable alternatives, it is worth noting some of those interpretations arising from the foregoing information.

A. Simple Maladjustment in Selection Criteria

One of the easiest and most often used explanations is that tests used for admissions are basically sound. Unfortunately in their present imperfect editions they tend to discriminate against uninitiated minority applicants. But it is just a matter of tinkering with the test items and other criteria to eliminate bias and insert precise "scientific" objectivity. In its elementary form, this interpretation is the darling of budding academics overly impressed with empiricism and the arrogant but still remote possibility of measuring anything and everything. In its advanced stages, such proponents as Educational Testing Service provide more sophisticated justification of that same hunch.

B. Response to the Economic Situation

Another benign interpretation is that recent admissions changes merely reflect the response of higher education to the tightening economic and employment situation. Fewer funds and other resources require limiting access only to the most qualified. Unfortunately that penalizes minority applicants. In addition, fewer jobs available after graduation would also tend to make graduate and professional faculty members much more selective to avoid a glut of unemployed professionals.

C. Chain Reaction Response to Bakke Decision

Closely related to the explanation of economic considerations, is speculation that admissions offices are possibly responding to the

anticipation of employers. A pro-Bakke decision by the Supreme Court could well lead to a lessening of effort in industry and government to hire minority graduates. Such a decline in demand for minority graduates would relay in chain reaction from the employer through placement office failures to admission practices.

D. Bakke as a Defense for the Status Quo

A more serious interpretation is that institutions of higher education anticipate the Bakke decision will tacitly support decrease in or neglect of effort to admit minority applicants. The general counsel to the University of California ~~stated~~ in a memorandum to the U. C. Chancellors dated October 28, 1976 advised such curtailment of admissions activities. He stated that because of the decision of the California Supreme Court "the University must refrain from making admissions decisions which involve consideration of race or ethnic origin." [12] In commenting on this instruction from the University general counsel, a Mexican American Legal Defense and Education Fund proposal stated that there "seems to be a tendency among college and university administrators" to "invoke Bakke as a justification for inaction." The proposal noted further that since the California Supreme Court ruling on Bakke, minority students are particularly vulnerable to the use of the pending U. S. Supreme Court decision as a "rationale to delay or suspend special admissions and services." [13]

---

[12] As quoted in "Minority Access to Higher Education: Monitoring the Bakke Case." San Francisco: Proposal of the Mexican American Legal Defense and Education Fund. 28 Geary Street. December 1976. p. 4

[13] Ibid. p. 7

Other sources shared the same concern. For example, a joint letter from the University of California Los Angeles Chicano Studies Center, with representatives from administrations in one community college, one State University and one other branch of the University of California notes "the negative use that is being made of the Bakke decision in public higher education institutions in California." [14] Behind such concerns lurks the suspicion of an even more insiduous and more long range discrimination force.

E. Increasing the Distance Between the Carrot and the Donkey

Where a defense of the status quo interpretation implies only neglect and inaction, a treadmill explanation of the reaction of higher education admissions to the Bakke case assumes the premeditated action of vested interests. For example, a letter from the Mexican American Legal Defense and Education Fund to the Special Admissions Committee at Hastings College of Law noted that there were accusations that Hastings referred virtually all Chicano applications to the LEOP program without consideration of the independent merits of the individual applicant. With financial limitations of the LEOP program, such mass referrals of one whole ethnic group effectively limit the number of Chicano admissions to Hastings. [15]

---

[14] Letter to the Chicano Legislative Caucus from Juan Gomez Quinones, Director UCLA Chicano Studies Center; Monte Perez, Director of Development, Rio Hondo Community College Fernando de Necochea, Associate Director University of California, Santa Barbara, Center for Chicano Studies and Gus Chavez, Director, California State University, San Diego Minority Student Services Program. November 12, 1976. p. 1

[15] Peter Roos, Director of Educational Litigation MALDEF, Letter to Special Committee on Admissions, Hastings College of Law, San Francisco: October 27, 1976. p. 2

As well as specific devices of control in admissions, the treadmill interpretation assumes more general implications. As noted at the end of Section II San Francisco Mayor Moscone asserted that as minorities meet the standards for admission to the upper reaches of professional training, society raises the requirements. Moscone's arguments obtain support from some leading voices in the field of education. For instance, Charles Tesconi, Jr. points out that the recruitment and training of physicians has long demonstrated "the tendency among those in privileged and functionally important positions to restrict access to those positions." [16] Another commentator, Randall Collins provides the same explanation in even broader and gloomier terms. He states that the history of education in the United States has been a "competitive cycle in which the less privileged pressed for more education while the more privileged extended their own educational achievements and raised the educational qualifications for positions in order to stay ahead of the flood." [17]

IV MEETING THE BAKKE CRISES: SOME ALTERNATIVE APPROACHES FOR HIGHER EDUCATION

Taken separately or together, the above explanations add up to a "bad game with worse odds" for minority applicants. [18] Any reduction in

---

16 Charles A. Tesconi, Jr. Schooling in America. Boston: Houghton-Mifflin, 1975. p. 240

17 Randall Collins, "Schooling and Social Inequality," Center, November-December, 1976. p. 69

18 Stevens, "The Good News of Bakke." p. 26

minority admissions will have proportionately more devastating effect on smaller minority groups of the population. Blacks and women, for example, may well be able to keep admitting some of their numbers to higher education at least in token representation. Slackening of affirmative action admissions effort either before or after the Bakke decision could deny even that minimal representation to smaller minority groups such as Chicanos. That denial in turn would inevitably result in making the issue of "reverse discrimination" a diversionary "tactic to keep bright young people of all ethnic groups fighting among themselves." [19]

Any workable alternatives to that depressing conflict should be able to aid institutions of higher education, monitoring and enforcement agencies to increase affirmative action admission efforts and results regardless of the Bakke decision. Such organizations now face an often bewildering mixture of valid and claptrap suggestions. Some of the more promising lines merit critical scrutiny.

A. Changes in Admission Criteria

The recent case of Hastings' increasing reliance on LSAT scores has a positive side. For good or for evil the proposed change in Hastings admissions policy does show that institutions still have discretionary power to arrange their own admissions standards. That institutional discretion means that higher education can implement standards that are advantageous as well as detrimental to minority applicants. And of course the ability to respond to individual and group differences was one of the earliest

---

[19] Stevens, "The Good News of Bakke" p. 26

promises of so-called standardized testing.

Before swallowing that seductive bait, it is instructive to review the short but rapid escalation of standardized testing in education. In the first place, standardized admissions criteria is tied and comes directly from the early attempts to identify differences in abilities among students in the public schools. The terms here are often misleading for "standardized" testing was the first major deviation from "standardization" in the schools. The genius and theme of growth for public education since the middle of the nineteenth century in this country had been standardization. Indeed public education in the United States began as a move away from the diversity that characterized private pre-public school instruction. But by the second decade of this century, standardization became less of a priority in the effort to include more clients and activities under the institution of public schooling.

One of the first noticeable reversals in goals was the attempt to differentiate instead of standardize students. From the first experimentation, schoolmen saw scientific testing and evaluation of student performance as a tool for additional sorting. Of course there had always been encouragement of some students and neglect of others. Those practices were simple tacit admission that standardization and gradation were not the perfect mechanisms that schoolmen claimed. As the system became larger the problems of adjusting to differences became even more apparent. Attempts remained only experiments until schoolmen could find more precise methods of identifying differences among individual students. Standardized

testing claimed to provide such measures. [20]

As early as 1911 Massachusetts Commissioner of Education, David Snedden, argued for special "ungraded classes" for "retarded children" and children with "physical defects." [21] In Snedden's scheme of schooling, standardized classes were still for normal children. Ungraded differentiation was for defective pupils.

Testing began with a similar emphasis. Early testers were interested in aberrations and deviations from the norm. Eventually ability and aptitude testing applied to the majority of students in public schools and applicants to institutions of higher education. By 1922 testing pioneer Lewis M. Terman and his associates were envisioning "various possible methods of adjusting curriculum and methods to the individual differences" of students. [22]

Since that golden promise, educators at all levels from elementary through graduate school have asserted the possibility just around the corner of redressing injustice in opportunity, admission and assignment through the use of scientifically formulated criteria. Such speculation has led to practical suggestions for relatively simple changes in criteria for admission and financial aid for Chicanos and other minorities.

---

20 Dwight Roper, "Bringing in the Trojan Horse: Testing, Diversity and Disintegration of the Public School," Education, Spring 1978, p. 2

21 Seventy-fourth Annual Report of the Massachusetts Board of Education. Boston: Wright and Potter Printing Company, State Printers, 18 Post Office Square, 1911. p. 83

22 Lewis M. Terman, Virgil E. Dickson, A. H. Sutherland, et al. Intelligence Tests and School Reorganization. Yonkers on Hudson, New York: World Book Company, 1922. p. 4

Supposedly those changes could place more emphasis on certain criteria while limiting or eliminating other measures.

But the promise was more hopeful than the reality. For example, as used in admission to graduate and professional schooling, advocates for simply adjusting the criteria have difficulty in making up their minds what criteria is significant. This quandary is especially true in the admission of minority applicants. As noted before, the California Supreme Court emphasized that any future criteria at the University of California Medical Schools must apply equally to all candidates for admission. [23] On the other hand, educational spokesman such as William Boyd argues that admissions practices must be "race conscious to a certain degree if they are to compensate for the way in which test scores underrepresent minority student ability." He goes on to assert that "race blind" dependence on "standardized tests can only penalize many well qualified, but low scoring minority students." [24]

The debate in the area of criteria between the court concept of "race blind" equal applicability and advocates of "race conscious" admissions is not the only one. Even supporters of "race conscious" admissions can't agree on which criteria is potentially most detrimental to minority applicants. For instance Boyd identifies standardized tests as the most prejudicial hindrance to admission of minority candidates. On the other hand, Urban Systems Research, Inc. in their report to HEW on admission of bilingual bicultural applicants castigated another enemy. According to that report the "heavy weight given to Grade Point Averages (GPAs) in admissions

---

[23] Stevens, "The Good News of Bakke" p. 23

[24] Boyd, "The Dangers of Underprediction." p. 64

decisions is probably the greatest barrier to bilingual/bicultural minorities' admissions." [25] In the place of GPAs, Urban Systems Research suggests interviews for minority applicants to determine such criteria as "not too negative an attitude toward society." [26] On the other end of the spectrum from this "scientific" and costly interview system, Boyd again suggests that former "class rank is at least as good and perhaps better as an indicator of potential." [27]

It is doubtful that any admission effort can adequately satisfy such an array of conflicting demands and suggestions. The point is that most existing and suggested admissions criteria has been and is and will be arbitrary and exclusionary. That is the nature of the beast. Such exclusion is also present in both written and unwritten criteria. The University of California may have discriminated against Bakke on the basis of his age as well as his skin. Sole reliance or even more than minor emphasis on changing admissions criteria to increase minority enrollment would probably do nothing except to divert energies and resources from likelier alternatives.

B. Invoking Robin Hood Again: Changes by the Law and Direct Government Intervention

Another commonly suggested alternative for improving minority

---

25 Assessment of Health Professions Schools' Admissions Criteria p. 2

26 Ibid., p. 3

27 Boyd, "The Dangers of Underprediction" p. 64

admissions boils down to the "Law" and its handmaiden the "government" should "do something." This suggestion often comes after naive reformers have exhausted themselves in tinkering with the puzzle of admissions criteria. That exhaustion in turn brings a glimmer of wisdom in the realization that admissions criteria actually needs only scant attention in contrast with more influential action.

Formal criteria can often be ignored or circumvented. Unfortunately receiving just this much enlightenment results in the reformer going only one more step to propose outside intervention from the law and government. For example, the already noted report of Urban Systems Reasearch Inc. to HEW proposes the following changes: Congress should amend the Health Profession Educational Assistance Act (PL 94-484) to state that the training of more bilingual/bicultural health professionals is a "high priority national goal" for health programs. In addition, according to Urban Systems, Congress should "create" separate offices in HEW to deal with bilingual/bicultural affairs and require admission and graduation of minority students as a criterion for awards of Federal money to health professions schools and health care institutions. [28]

There are a couple of serious flaws in relying on such direct intervention. The Law and Government at this particular stage in history are caught between the horns of a perplexing dilemma. On the liberal side since the Watergate miscarriage, Law is seen as some sort of sleazy

---

[28] Assessment of Health Professions Schools' Admissions Criteria. p. 6

protection racket to provide solace and suckle to Nixon, Agnew and other habitual criminals of their stripe. Contempt of court expresses not only a charge but also the attitude of all enlightened Americans regardless of race and political persuasion. The institution is exposed as a government of lawyers instead of men.

Nor can Law regain much respect from its former conservative supporters by playing Robin Hood against the White majority in order to reward minorities. Both sides of this contradiction add up to the fact that the Law can provide very little direct aid to institutions of higher education. The Law also is facing an institutional crisis similar to the loss of support for the Church in the 16th century. Force of arms will help to keep the Law afloat for a little while. But the church also had armed power. It could only sustain its power temporarily once the respect for the institution was gone. Rather than squandering dwindling reserves of public esteem with direct dabbling in admissions criteria, Law and Government intervention can use their diminishing impact positively by supporting more natural and effective alternatives.

C. Open Admissions

Tinkering with formal admissions criteria or invoking the declining institution of law to direct action in admissions is just too simplistic and ineffective to meet the complexities of racism in higher education. Admissions criteria and government intervention can only play supporting roles to more responsive alternatives. The first natural approach worthy of serious consideration is open admissions.

Arguments for some form of open admissions in graduate and professional training are harsh but compelling. According to proponents of of this approach minorities did not obtain proportional admission to higher education until the recent de facto open access to lower status and lower income training programs. Continuing that logic, it makes more sense from the perspective of a market place society to expand the training of workers in fields with high wages and low unemployment than in fields of lower wages and higher unemployment. Arbitrary restriction of admission to high status, high income training "coupled with open admissions to lower status and lower income training programs, constitutes a denial of equal protection of law." [29] Such a policy tends to reinforce the market advantage of the restricted access group and in effect maintains a monopoly against free enterprise interests of the general public.

Translated to specific correction of this market imbalance, one educator suggests that the University of California and other states could expand their enrollment in all tax-supported occupational training programs by 10% each year. This expansion would continue until the university would defer fewer than 5% of all qualified applicants. According to John Stevens, such a policy could also have additional future advantages for society. He suggests that the slow persistent expansion of professional groups would result in a watering down of their elite status and relative incomes. Eventually their surplus would spill over to benefit isolated or economically depressed communities that are presently without professional services. [30]

---

[29] Stevens, "The Good News of Bakke." p. 25

[30] Ibid., pp. 25 and 26

Of course the Stevens scheme does have at least one serious drawback. A proposed expansion of such magnitude to include more minority applicants comes at an unlikely time for most universities to increase expansion or expenditure of additional resources. For most universities the adoption of open admissions as Stevens outlines would mean the necessity of more facilities, faculty, and money. All of this would be coming at a time when leading educators are predicting a period of limited or fewer resources for higher education. That flaw raises the legitimate question: How could a university graduate or professional school use the same principle of open admissions without expansion of program?

To partially answer that question several proponents have suggested various modifications of open admissions. For example, Kappan editor, Stanley Elam, suggests graduate and professional schools could admit candidates for the available number of slots by a random "draft" selection process.[31] Such a lottery could also guarantee that minority applicants would be admitted proportionally to their percentages in the population of the institutions service area.[32]

Taken to its more democratic extremes open admissions in graduate and professional schools would mean that anyone who completes any accredited four year college program could apply and be eligible to be selected at random for graduate and professional training. Any expansion of such a

---

[31] Elam, "Is a Bakke Compromise Possible?" p. 270

[32] See later discussion on page 33 of designated service areas.

policy to admit more applicants could lead, in the medical profession at least, to breaking the monopoly that a few medical schools have enjoyed since the Harvard Report of 1910. New schools could come into competition with elite medical training institutions in much the same way that the Community College and Extension Programs have stolen the thunder of undergraduate education.

In other words, open admissions could move the burden of competition from between individual applicants to the more appropriate shoulders of institutions. There are some often overlooked benefits from such competition between institutions. Using Medicine again for an example, there is no evidence to show that there is less malpractice and more adequate health attention now than before 1910. But the Harvard Report of that year promised there would be better health if the number of medical schools and practititoners were limited through strict control. While improving the status and income of the medical profession, the implemented results of that report have produced over the last 68 years near disastrous consequences for medical attention to the American public. There are fewer physicians now than there were at the beginning of this century. Of all nations the United States now ranks sixteenth in infant mortality and twentieth in life expectancy at birth. [33] Advocates claim that open admissions in medical professional training could change some of that neglect and decline in attention.

---

[33] Stevens, "The Good News of Bakke." p. 26

The most powerful argument against complete acceptance of the open admissions alternative is vested interest. It is doubtful that any profession would welcome with open arms an alternative that would dilute elite status and income potential. On the other hand, open admissions could well serve as a part of a more comprehensive and more politically feasible program with emphasis on other alternatives. Unfortunately, open admissions as a mechanism to increase minority enrollment can probably never acquire more than a supporting role. In addition to the threat it poses to vested interest, it is based in the final analysis on the jarring assumption that human intelligence is widely distributed across all economic and ethnic groups. That assumption particularly distresses traditional academic faculty.

D. Changing Faculty Selection Practices

In conflicts between applicants or students and institutions of higher education, faculty members in general have maintained a surprisingly good reputation. While castigating the regents, administration or "admissions", students or applicants rarely identify faculty as the enemy. They seem to assume that faculty members are generally the most egalitarian members of the university staff community and are usually in favor of more liberal administrative policies concerning students. But alas, the faculty has little imput into and less control over such things as admissions policy and practice. The media often portrays academics as helpless unwilling pawns in the hands of a reactionary administration. For example, as noted before, the faculty at Hastings voted last summer, to increase the reliance on LSAT scores as an admissions requirement. The

faculty approved without criticism that change which was obviously detrimental to minority applicants. But after that voted change came before public scrutiny, opponents justified the academics on the grounds that the potential discrimination impact of the increase "was not revealed" to the faculty.[34] How well does this picture of the naive and powerless but basically liberal and goodhearted faculty mesh with reality?

The Assistant Dean for Student Affairs at the School of Education for San Diego State University recently noted that one of the most significant actions affecting the admissions of minority applicants is the selection of new faculty members.[35] There are several reasons for that significance. One of the more obvious is that faculty members are the most likely element in aiding or hindering a minority applicant or student from feeling confortable and at home with a graduate institution. In recognition of this fact a recent report to HEW recommended that health professions schools should "provide better tutoring services, test taking classes, and other help to bilingual/bicultural students."[36]

To some extent demands of affirmative action have curtailed the exclusionary formal admission policies of graduate and professional schools.

---

34 Ramirez, "Hastings Shift on Admissions Stirs Protest," p. 10, Section A.

35 Jaime Lujan, Assistant Dean for Student Affairs, School of Education, California State University, San Diego. Conversation with Dwight Roper, January 4, 1978.

36 Assessment of Health Professions Schools Admissions Criteria, p. 10

But those same graduate faculties still maintain their ways of insuring that non-traditional applicants and students feel a lot more uncomfortable than their prep-school counterparts. Curing that situation necessitates some rethinking of affirmative action and academic freedom as both apply to the selection of faculty.

Among other reasons, the prohibitive cost of obtaining graduate training insured that very few gifted intellectual resources from low income and minority groups could enter the academic profession. The Morrill Act of 1862 and Land Grant College system attempted to alleviate some of this shortcoming. But it was after the advent of the G.I. Bill and the recommendations of the Truman Commission on Higher Education before large numbers of students from non-traditional academic preparation and background entered the undergraduate levels of higher education. Only after the civil rights and civil liberties movements of the 1960s did prestigious graduate schools admit more than a scanty handful of non-traditional candidates for graduate and professional degree programs.[37]

Academic institutions are most vulnerable in attempting to live up to the letter of affirmative action while avoiding the spirit. At least they frequently practice what they think the letter is. As a result those institutions often find that they have violated both the spirit and the letter.

The intent of Equal Opportunity legislation of 1964, Executive Order

---

[37] Dwight Roper, "The Generation of Second Raters: Faculty Recruiting and Development in Higher Education." Paper in preparation for publication, p. 2.

11246 and all subsequent Affirmative Action "rules," regulations and legislation is clear. In any organization receiving federal funds the staff at all levels of responsibility must at least reflect the percentages of minority groups and females found in the population of the organization's designated service area. If it does not, the employer must show a variety of good faith efforts to make it that way.

Unfortunately, several hiring committees at universities and colleges think that advertising every position as widely as possible, regardless of intent in the final filling of the position, takes care of the good faith ingredient. The magic "Kings X" phrase, "An Equal Opportunity Employer" supposedly absolves all sins of omission or commission in covering "wired" positions. Academics feel that this is especially true if the position is wired for a minority or female. [38]

In fact, broad announcement and recruiting as an effort to cover up "wired" openings is subject to court action as attempt to defraud the government. Promoting or hiring without advertisement, a minority, female or white male for that matter who complements the quota set by the designated service area is perfectly legal under affirmative action regulations. What counts is not a widespread elaborate recruiting practice but the results of recruiting practices. [39]

Generally, selection committees and department chairmen choose new

---

[38] Roper, "Generation of Second Raters." p. 22

[39] Ibid., p. 23

faculty with similar credentials and background to their own. Faculty with screening and selection authority and responsibility also reject candidates with significantly different qualifications and background from the traditional image of a member of their profession. This method of selecting new faculty also sets the pattern for faculty selection of applicants for admission to several graduate and professional schools. How can graduate and professional schools prevent entrenched faculty oligarchs from dominating recruiting and retention policy and practice for all departments?

In direct contradiction to the cherished tenets and comforts of so called academic freedom, institutions should probably not delegate hiring authority below the level of Dean for a school. For several sensitive or crucial positions, that authority should stay with the Vice President, Provost or President level of the institution. The simple reason for this suggested departure from tradition is that the Dean of a school is usually the first level up the hierarchy who derives more prestige and recognition from building a faculty than from his own academic standing and biases. Any chairman or faculty member below the level of Dean as a matter of human nature and self interest is prone to see any qualifications significantly different than her or his own as a potential threat. The Dean is generally the first level whose self interest is tied more to building a strong and often diverse division or institution than to scheming over a threat of new minority faculty. [40]

---

[40] Roper, "Generation of Second Raters." pp. 28 and 29

Designation of a high level of direct responsibility for hiring of minority faculty also is in keeping with affirmative action guidelines. Those guidelines insist that the root of any effective affirmative action effort to increase minority employment in any area or level rests in assigning the highest possible administrative level for direct and undelegated responsibility. Although sure to arouse the opposition of traditional faculty in most elite graduate and professional schools, changing the faculty as a direct means of insuring increased minority admissions can also muster some powerful allies and support.

Of the alternatives discussed so far, implementation or change in faculty selection is the first that has the possibility of commanding some trading power. The coalition could form in the following manner. Minority applicants and students obtain something they want (increased minority admission). Administrators consolidate their organizational power at a higher level through responding to the issue of increasing minority admissions through hiring more minority faculty. And the general conservative public and supporters of the university back the centralized hiring authority as a sound step toward bringing the administration of higher education back into line with the more efficient chain of command hiring practices for private enterprise.

The present employment market also favors such a coalition to curtail the results of faculty self interest. With the current glut of well trained Ph.D.s, a graduate or professional school can quickly replace any faculty member who leaves in a fit of pique over the new hiring policy. And of course faculty are aware of their present vulnerability in the open

employment market and will tend to be more hesitant in attempting to maintain their power for hiring new faculty.

Changing faculty selection practices has at least one major danger. There is no guarantee that minority faculty will be more responsive to selecting minority applicants and making them feel at home in the institution. But it seems likely that they would follow the pattern of traditional faculty members in taking more interest in students that come from backgrounds similar to their own.

Then there is the problem of tenure and low turnover. Even if a graduate or professional school were committed to changing the composition of its faculty, from where would come the necessary position slots? Several institutions have 70% or above tenured faculty who are fifteen or more years away from retirement.

Of course there is some room even in the tightest turnover situation. For example, the lowest turnover from death, retirement and transfer is even now between 2 and 4%. That can amount to 25 to 50% change in any faculty over a period of twelve years. The rate of turnover and position vacancy can also serve as an accurate predictor for setting a realistic time table by which an institution measures its progress toward adequate minority faculty composition.

In spite of drawbacks, changing the faculty promises direct impact on increasing the number of minority admissions and graduations. That promise makes more sense than either fiddling with empirical admissions criteria or appealing for direct force intervention from the declining institutions of law and government. Changing the composition of faculties provides one

of the strongest weapons to couple with some variation of an open admissions program and a combination approach to affirmative action.

E. Combination Affirmative Action Admissions

Corresponding and more responsive to the complexities of the dialogue between Chicanos, other minorities and higher education would be a combination program. Such a comprehensive approach would include some minor emphasis on criteria and involving law and government. It could direct more attention, however, to such broader natural mechanisms as open admissions and faculty selection. Institutions of higher education, monitoring and enforcement agencies could subsume all of those single alternatives in a program that placed top priority on at least the following components.

1. Reconsidering the Designated Level of Direct Responsibility in each Institution for Affirmative Actions Admissions

As noted in the suggestion for faculty selection, the single most important element of implementation was moving hiring authority up to a high level of responsibility. That practice corresponds to insuring affirmative action in other areas such as admissions. For example. the Urban Systems Report to HEW states that "minority admissions programs, to have real impact, seem to require: strong support of the Dean of the school." In addition, Urban Systems notes that such a program also needs administration "by someone high in the hierarchy of the school." [41]

Of course making the top responsible is not just a suggestion to HEW for Health Professions Schools. It is the backbone for any affirmative action effort. The United States Equal Employment Opportunity Commission

---

[41] Assessment of Health Professions Schools' Admissions Criteria. p. 4

states that many affirmative action programs "are not successful because the individual named to head them does not have sufficient status, authority, time or staff." Again the commission notes that the "importance of this program is indicated from the start" by the individual in charge at each institution. [42] All too often colleges and universities hamstring affirmative action in both employment and admissions by appointing a relatively powerless administrator to be the "Affirmative Action Officer." The chief duties of such an individual soon boil down to nothing more than serving as an example token minority.

The responsibility for affirmative action effort should rest with the officer who has the corresponding authority to use budget and personnel allotments as sanctions, if necessary, to insure compliance. In higher education, that level is usually the president or chancellor. An Affirmative Action officer may serve as direct staff to the president but the thrust, implementation and sanctions if necessary, must come from the chief executive. For instance, one state university president who was bolder than his fellows announced to his faculty through an Affirmative Action memorandum that failure "by departments, units, and offices to make progress in achieving the goals of this Affirmative Action Program will result in review of budgetary allocations and administrative performance for the purpose of determining necessary corrective action." [43]

---

[42] U. S. Equal Employment Opportunity Commission, Affirmative Action and Equal Employment. Vol. 1. Washington, D. C. 20506. January 1974. p. 19

[43] Ellis McCune, President, California State University, Hayward "Affirmative Action Program." March 4, 1971, p. 2

The grim reality of this point is that in many instances the president will become the admissions officer in once again making direct decisions in areas of policy and practice that she or he had formerly delegated.

2. Redefining Service Areas

Closely aligned with the designation of high level administrative responsibility in the institution is drawing the parameters of the institutions service area. Urban Systems brought this point to the attention of HEW in noting that the increase in recruitment, admission and graduation of bilingual/bicultural students should take into account the "character of each institution's population base." [44] But since the early days of affirmative action institutions have attempted to gerrymander those population areas to justify less effort in minority employment and admissions. The avoidance of such reshaping for purposes of discrimination requires some simple but hard and fast definitions of service area.

A safe rule of thumb in anticipating a legitimate designated service space is the smallest surrounding area that will result in the largest percentage of a particular minority population. This drawing of parameters results in different size but concentric service areas for different minority groups. For example, Stanford University should base their percentage of Chicano faculty at all levels of responsibility on Santa Clara County (Santa Clara County has a higher percentage of Chicanos than either California or the nation). For Black faculty, the percentages should come from the San Francisco Bay area (higher than California or the nation but

---

[44] Assessment of Health Professions Schools' Admission Criteria. p. 6

also higher than Santa Clara County). For American Indians or other minorities, Stanford's designated service area might be California, Western Region or the nation.[45]

3. Identifying and Using Political Connections with Admissions.

Some of the facets of a combined policy approach apply primarily to large federal research granting agencies in contract relationships with institutions of higher education and federal monitoring agencies such as GAO, OMB and EEOC. In addition, there are a host of private consulting, research and educational services firms that profit from the present admissions system and would probably resist change. Recent proposals to increase reliance on LSAT scores provide an example. The San Francisco Sunday Examiner and Chronicle reported that Dean Peterson of Hastings recommended greater reliance on the LSAT after visiting Educational Testing Service (the firm that prepares the test).[46] Such connections raise questions on why agencies of the federal government stand in tacit support of lack of diligence in Affirmative Action. Those questions are particularly applicable to relations between federal agencies and institutions of higher education which are the direct recipients of grants from public revenues. Rather than dismay, this situation should give hope to advocates of increased minority admission. The trick is identifying those connections and learning to use them. Unfortunately

---

[45] Roper, "Generation of Second Raters." p. 23

[46] Ramirez, "Hastings Shift on Admissions Stirs Protest." p. 10, Section A.

most of that learning takes place in the rough and tumble arena of trial and error of human relations.[47] But the task is not hopeless for those who are willing to lose some skin and a lot of dignity. In the long run it is far more effective than relying solely on "objective" criteria for increasing minority admissions or any other program. Such practical experience determines quickly enough that one of the chief obstacles to increased affirmative action effort is the language which describes it.

4. Rethinking the Words

As noted in the introduction there has been a largely successful effort to substitute ambiguous phrases such as "goals" and "percentage of the available work force" as a measure of affirmative action. That shift in language of employment translates in higher education to such equally ambivalent wording as "percentage of the qualified applicant pool." Even a moment's reflection on the word "qualified" uncovers the questionable assumption that a gulf based on exposure to formal knowledge exists between the abilities of the trained and the untrained. Although somewhat more abstract than manipulating log rollings and whacking budgets to increase minority enrollment, an important part of any successful affirmative action effort must be the constant retesting of its terminology.

---

[47] As Personnel Director during the four year "hot" period of equal opportunity at California State University, Hayward, I had the dubious honor of writing and implementing the pilot affirmative action program for all nineteen institutions of the California State University and College system. Any expertise gained in that process came from personally blundering into all mistakes and cleaning up the resulting mess.

Advocates must pluck their phrases in cadence with the pitchpipe of reality to see if they ring true.

That kind of constant testing instead of a reliance on traditional jargon can reopen some vital questions. For instance, institutions no longer have to take the word of the San Jose School district affirmative action officer that "quotas are exclusive" but "goals are inclusive." Cutting through that kind of fancy foot work and supplying straight talk would be one of the most significant parts of a combined affirmative action program. Along with untangling a language, mastering pork barrel self interest politics, reapportioning the minority population and putting the bell of extra direct responsibility on the chief executive cat, a combined affirmative action approach also needs to worry about the future.

5. Initiating Commissions on Open Graduate Admissions and Other Follow Through Possibilities

Among others, four historical items hastened the gradual broadening of access to higher education in the United States. The Morrill Act of 1862 and the Land Grant College system, the G.I Bill, the findings of the Truman Commission and the civil rights and civil liberties movement of the 1960s all contributed to speeding the increased admission of non-traditional students. In particular, the public findings of the Truman Commission on Higher Education provided a watershed. For that commission asserted, and they were believed, that a large percentage of Americans could benefit from and actually complete the rigors of a college education. From that impetus, community colleges and extension of public state universities in effect provided open access to higher education to anyone who can afford to spend even a modest sum.

The eve of the Bakke decision is an excellent time for a University consortium to initiate a low budget commission similar to the Truman Commission. This consortium group could devote a brief period to the study of the applicability of open access in graduate and professional training. In addition, such a combined program with possible help from the study commission could extend from admissions through such areas as financial aid, retention rates to placement patterns and out into the broad arena of employment practices.

For Chicanos at least, it is doubtful that the results of the Bakke case will apply only to admissions in graduate school. Supporters for increased minority enrollment can meet those results adequately. However, their path will be easier and more direct if they avoid leaning entirely on formal admissions criteria and government intervention. Fortunately, the situation brings some broad alternatives.

V SOME SOURCES

Alcala, Daniel S., Deputy Administrator for Affirmative Action, "Questions and Answers about Affirmative Action and School District." San Jose Unified School District, 1605 Park Place, San Jose, California

Assessment of Health Professions Schools' Admissions Criteria for Bilingual/Bicultural Applicants. Prepared by Urban Systems Research and Engineering, Inc. Cambridge, Massachusetts and Washington, D. C.: for the Department of Health, Education and Welfare, Health Resources Administration, Bureau of Health Manpower, November 1977.

Boyd, William II, "SATS and Minorities: The Dangers of Underprediction," Change Magazine, November 1977.

Collins, Randall, "Schooling and Social Inequality," Center, November-December 1976.

Elam, Stanley, "Is a Bakke Compromise Possible?" Phi Delta Kappan, December 1977

Johnson, Barbara, "U.C. Telephone Survey on Minorities in U.C. Medical Schools' First Year Students 1976-1977 and 1977-1978." Memorandum to Ed Marenco, San Francisco: Mexican American Legal Defense and Education Fund, 26 Geary Street, Novvember 2, 1977.

Letter to the Chicano Legislative Caucus from Juan Gomez Quinones, Director UCLA Chicano Studies Center; Monte Perez, Director of Development, Rio Hondo Community College Fernando de Necochea, Associate Director, University of California Santa Barbara Center for Chicano Studies; and Gus Chavez, Director of California State University, San Diego Minority Student Services Program, November 12, 1976.

Lujan, Jaime, Assistant Dean Student Affairs, School of Education, California State University, San Diego, Conversation with Dwight Roper, January 4, 1978.

McCune, Ellis, President California State University Hayward, "Affirmative Action Program." March 4, 1971.

"Minority Access to Higher Education: Monitoring the Bakke Case." San Francisco: Proposal of Mexican American Legal Defense and Education Fund, 28 Geary Street. December 1976.

Ramirez, Paul, "Hastings Shift on Admissions Stirs Protest," San Francisco Sunday Examiner and Chronicle, January 1, 1978.

Roos, Peter, Director of Educational Litigation Mexican American Legal Defense and Education Fund, Letter to Special Committee on Admissions Hastings College of Law, San Francisco: October 27, 1976.

Roper, Dwight, "Bringing in the Trojan Horse: Testing Diversity and Disintegration of the Public School," Education, Spring 1978

Roper, Dwight, "The Generation of Second Raters: Faculty Recruiting and Development in Higher Education." Paper in preparation for publication.

Seventy-Fourth Annual Report of the Massachusetts Board of Education. Boston: Wright and Potter Printing Company, State Printers, 18 Post Office Square, 1911.

Stevens, John M., "The Good News of Bakke," Phi Delta Kappan, September 1977.

Terman, Lewis M., Virgil Dickson, A. H. Sutherland, et al., Intelligence Tests and School Reorganization. Yonkers-on-Hudson, New York: World Book Company, 1922.

Tesconi, Charles A., Jr., Schooling in America. Boston: Houghton-Mifflin, 1975.

United States Equal Employment Opportunity Commission, Affirmative Action and Equal Employment, Vol. 1. Washington, D. C. 20506 January 1974.